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ABSTRACT

Designed for middle school through high school students, this unit contains eight lesson plans that focus on Arizona state law. The state lessons correspond to lessons in the volume, "Antidote: Civic Responsibility. Drug Avoidance Lessons for Middle School & High School Students." Developed to be presented by educators, law student, or attorneys, the state lessons are interactive and sequential, although individual lessons can stand alone. The document includes legal information about driving while intoxicated, drug offenses, sentencing, and drug and alcohol statutes written specifically to combat juvenile abuse. (RJC)

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Antidote: Civic Responsibility

Arizona Law

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Lesson 1

1. Has Aimee violated any state laws? Have her parents?

Aimee has violated no Arizona law as there is no law which makes a minor liable for an unintentionally dangerous act toward another minor.

Aimee and Carrie's parents, however, might be in violation of Arizona law. Ariz. Rev. Stat. § 13-3619 makes it unlawful for a person having custody of a minor under 16 to knowingly cause or permit the life of the minor to be endangered or the minor's health to be injured, moral welfare imperiled by neglect, abuse, or immoral associations. Arguably leaving a young to child to care for another young child puts the welfare and health of both in jeopardy. In deciding to charge and/or convict the parents factors such as how long the girls were left unsupervised and how often this situation occurred will be considered.

2. Does state law allow 17 year old Tyrell to drink a glass of wine with his dinner without his parents' consent?

It is unlawful for a person under 21 to consume or possess any spirituous liquor. Ariz. Rev. Stat. §4-244 (9) (1992). While this section has exceptions with regard to handling spirituous liquors in employment situations for individuals at least 19 years old, there are no exceptions for persons under 19. Tyrell is in violation of the law.

3. Is Maria violating any law when she tells her roommates whom to call to buy marijuana?

Yes. It is illegal to possess marijuana. Ariz. Rev. Stat. § 13-3405 (1992). Maria, while not possessing it directly, provided critical information to her roommates to enable them to attain possession of the marijuana. In Arizona a person commits conspiracy if "with intent to promote or aid the commission of an offense, such person agrees with one or more person that at least one of them or another person will engage in conduct constituting the offense and one of the parties commits an overt act in furtherance of the offense. Ariz. Rev. Stat. § 13-1003A (1989). Maria is in violation of the act if her roommates took action in attaining the marijuana.

4. Have Adam and Alex broken any laws other than those against drinking and fighting?

Yes. Since Joe died as a result of his interaction with Adam and Alex they will likely be criminally charged for their behavior. They could be charged with manslaughter. One is guilty of manslaughter if s/he recklessly causes the death of another person. Ariz. Rev. Stat. § 13-1103 (1992). Alternatively, they could be charged with endangerment which requires recklessly endangering another with a substantial

risk of imminent death or physical injury. Ariz. Rev. Stat. § 13-1201 (1989).

5. **Has Jose violated any state law even though he is not drinking? Has Carlos or TJ violated any state law?**

Several Arizona laws have been broken. Jose, is not drinking, but may be in violation of the law depending on how narrowly possession is defined. Arguably, Jose is possessing alcohol in violation of Ariz. Rev. Stat. §4-244 (9) (1992). If Jose has any alcohol in his blood he is in violation of Ariz. Rev. § 4-244 (34) (1992) for it is illegal for a person under 21 to drive or be in control of a motor vehicle while there is any spirituous liquor in the person's body.

TJ is in violation of Ariz. Rev. Stat. §4-244 (9) (1992) for illegally possessing and consuming alcohol. He and Carlos are violating Ariz. Rev. Stat. §4-244 (20) (1992) by consuming alcohol in a public place, thoroughfare or gathering. Carlos is additionally violating Ariz. Rev. Stat. § 4-244 (1992) if he provided alcohol to TJ or caused alcohol to be provided to him.

6. **Is Dr. Melrose violating any state or federal law by prescribing pain killers without conducting an examination or determining need?**

Dr. Melrose is violating not only state law, but federal law too. Under 21 U.S.C.A. § 829, a physician must have a legitimate medical purpose for dispensing drugs, and the act of dispensing or prescribing drugs should be within the usual course of professional conduct. U.S. v. Varma, 691 F.2d 460 (1982), U.S. v. Jamieson, 605 F. Supp. 119 (1985).

Dr. Melrose's patients, if they do not provide him with a bona fide reason for needing the painkillers, may also be breaking the law. 21 U.S.C.A. § 843 prohibits knowingly or unknowingly acquiring possession of a controlled substance by misrepresentation, fraud, forgery, deception or subterfuge.

Additionally, Dr. Melrose is violating Arizona's prohibition against intentionally or knowingly distributing a controlled substance in violation of §36-2525. Ariz. Rev. Stat. §36-2531 (1992). Further, he is violating § 32-1491(D) (Supp. 1993) which requires a doctor to dispense drugs only to his own patients and only for conditions being treated by that doctor. If Dr. Melrose is giving patient's prescriptions at their request and not for legitimate medical conditions for which he is treating them he is in violation of the law.

7. **Is Danielle violating any law by taking only one or two pills from someone else's prescription?**

Danielle is violating several state and federal laws. Since she is in effect dispensing prescription drugs to herself, she

is violating 21 U.S.C.A. § 829, which prohibits dispensing any controlled substance which is a prescription drug without the written prescription of a practitioner. She is also violating 21 U.S.C.A. § 843, which prohibits knowingly or unknowingly acquiring possession of a controlled substance by misrepresentation, fraud, forgery, deception or subterfuge and 21 U.S.C.A. § 844 which prohibits simple possession of a controlled substance unless such a substance was obtained by a prescription. The seriousness of her crime under federal drug control laws will depend on the type of drug which she is taking and how the drugs are used.

Arizona law makes it unlawful for a person to possess or possess for sale a prescription-only drug. Ariz. Rev. Stat. §13-3406 (1992). Danielle is clearly in violation of this section since she is taking prescription drugs out of their prescription bottles for her own benefit. She could also be charged with violating Ariz. Rev. Stat. §13-3407 (1992) which makes it illegal to obtain or procure the administration of a dangerous drug by fraud, deceit, misrepresentation or subterfuge. Her behavior is also in violation of Ariz. Rev. Stat. §13-1802 which makes it unlawful for a person to knowingly (1) control the property of another with the intent to deprive the owner of that property and (2) convert the property for an unauthorized term or use services or property of another entrusted to the defendant or placed in the defendant possession for a limited, authorized term or use.

8. **Is Renee breaking any law even though she is not selling drugs herself?**

Even thought she is not selling drugs directly, Renee is violating several state and federal laws. She is violating 21 U.S.C.A. § 841 prohibiting possession of a controlled substance with the intent to manufacture, distribute or dispense drugs and 21 U.S.C.A. § 844 prohibiting simple possession of a controlled substance.

Renee could receive an increased sentence in accordance with the federal sentencing guidelines as a result of her using children in her scheme. Under 21 U.S.C.A. § 859, the distribution of a controlled substance to a person under 21 year of age is subject to increased penalties. The United States expressed its concern with the importance of protecting children from drug trafficking under 21 U.S.C.A. § 860, which imposes heavier prison sentences in cases involving the distribution or manufacture of controlled substances in the proximity of schools, playgrounds or youth centers. 18 U.S.C.A. App. 4 § 3B1.3 also provides for increased sentences in cases of abuse of one's position of trust, as in a drug trafficking defendant involving her daughter in the drug trade. U.S. v. Ledesma, 979 F.2d 816 (1992).

Renee is violating several Arizona laws. Knowingly possessing or using a prescription-only, narcotic or dangerous drug is a violation of Arizona law. Ariz. Rev. Code §§ 13-3406 to 13-

1308 (1992). Additionally, using a minor to engage in any conduct prohibited in §§ 13-3404, 13-3404.04. 13-3405, 13-3407 and 13-3408 as well as selling or offering to sell any substance of which possession is prohibited to a minor is prohibited.

9. Did Jim violate any law other than those regarding controlled substances?

Their heroin use is a felony under federal drug-control statutes. 21 U.S.C.A. § 841 prohibits possession of a controlled substance with the intent to manufacture, distribute or dispense such substance. 21 U.S.C.A. § 844 prohibits simple possession of a controlled substance.

Jim transmitted the HIV virus to Andre through the shared needle. Arizona has not yet dealt with this issue. Under the Model Penal Code, however, Jim's behavior could constitute simple or aggravated assault or the attempt thereof, or reckless endangerment; under certain extreme situations, it could be construed as murder. See Gene Schultz, AIDS: Public Health and the Criminal Law, 7 St. Louis U. Pub. L. Rev. 65 (1988); Roger N. Braden, AIDS: Dealing With the Plague, 19 N. Ky. L. Rev. 277 (1992). In some cases, it has been suggested that the HIV virus provides a deadly weapon. Cf. Brock v. State, 555 So.2d 285 (Ala. Crim. App. 1989). In Arizona Jim could be charged with administering a dangerous drug to another person in violation of §13-3407 (1992). Administer is defined to mean "apply, inject or facilitate the inhalation or ingestion of a substance to the body of a person." Ariz. Rev. Stat. § 13-3401.

10. Has the bartender or owner of Bulldog's Bar & Grill violated any law?

Yes. Ariz. Rev. Stat. §4-244 (1992) makes it illegal for a licensee or other person to serve, sell or furnish spirituous liquor to a disorderly or intoxicated person, or for the licensee or employee of the licensee to allow or permit a disorderly or intoxicated person to come into or remain on or about the premises in excess of 30 minutes after the state of intoxication is known or should be known to the licensee in order that a nonintoxicated person may transport the intoxicated person from the premises.

Where a licensee sold spirituous liquor to an obviously intoxicated person and the person consumed the liquor sold and the consumption was the proximate cause of the injury, death, or property, the licensee will be liable for property damage and personal injuries and/or is liable to a person who may bring a wrongful death charge. Ariz. Rev. Stat. §4-311 (1992). One is considered obviously intoxicated to the extent that a person's physical faculties are substantially impaired and the impairment is shown by significantly uncoordinated physical action or significant physical disfunction, that

would have been obvious to a reasonable person." Ariz. Rev. Stat. §4-311 (1992).

Lesson 2

CRIMINAL JUSTICE STATISTICS: DRUG AND ALCOHOL RELATED OFFENSES UNIFORM CRIME REPORT DATA OF 1990--CRIME IN THE UNITED STATES

According to the Uniform Crime Report of 1990, 68% of the drug abuse violators were arrested for possession of heroin, cocaine or a narcotic derivative. A little over 31% of drug arrests were for the sale and manufacture of drugs.

Out of the 14,195,100 total number of arrests that occurred in 1990, drug abuse violations accounted for 1,089,500, driving under the influence comprised 1,810,800, and liquor law violations represented 714,700 of the total.

1981-1990 Ten Year Trend

Arrests for Drug Abuse Violations

In 1981, the total number of arrests for drug abusers under the age of 18 was 69,383. On the other hand in 1990, the total number was 50,435. This represents a 27.3% **decrease** in the number of arrests for persons under the age of 18. However, the number of arrests for persons over the age of 18 represent an 89.9% **increase** from 332,733 in 1981 to 631,932 in 1990.

Liquor Law Violations

For persons over the age of 18, the number of arrests for liquor law violations have dramatically **increased** to 61% from 218,079 in 1981 to 351,064 in 1990. However, the number of arrests for persons under the age of 18 has decreased to less than 0.4%.

♦ ♦ ♦

Criminal Victimization in the United States, 1990 A National Crime Victimization Survey Report, February, 1992

Percent Distribution of Victimizations by Perceived Drug or Alcohol Use by Offender:

- Of the **130,260** total rapes reported by victims to police, **49.8%** were believed to be committed by someone under the influence of drugs or alcohol.
- Of a total of **1,149,710** reported robberies, **24.2%** involved an offender under the influence of drugs or alcohol.
- Of **1,600,760** aggravated assaults committed **40%** were committed by people under the influence of drugs.
- Of the **3,128,130** simple assaults reported, **32.9%** were perpetrated by someone perceived to be under the influence of drugs or alcohol.

Lesson 4

FEDERAL SCHEDULE (answers to handout 3)

DRUG	SCHEDULE
heroin	schedule 1
beer	not a scheduled drug
vodka	not a scheduled drug
nitrate	not a scheduled drug
amphetamines	schedule 3
caffeine	not a scheduled drug
marijuana	schedule 1
crack	schedule 2
scotch	not a scheduled drug
MSG	not a scheduled drug
cocaine	schedule 2
glue	not a scheduled drug

FEDERAL PENALTIES BY SCHEDULE FOR POSSESSION

SCHEDULE	MAX. PRISON	MAX. FINE	MAX. TOTAL
schedule 1	15 years	$25,000	15yrs + $25,000
schedule 2	15 years	$25,000	15yrs + $25,000
schedule 3	5 years	$15,000	5yrs + $15,000
schedule 4	3 years	$10,000	3yrs + $10,000
schedule 5	1 year	$ 5,000	1yr + $ 5,000
unscheduled drug	n/a	n/a	n/a

The penalty doubles if the defendant has a previous conviction for a schedule law violation.

In order for a drug to be a narcotic, it must be a derivative of opium. All narcotics contain opium or opium derivatives, ie: heroin.

Malt beverages such as beer are not included in the scheduling process. They are controlled by liquor laws.

Information from 21 U.S.C.A. § 841 (West 1981).

States	Heroin	Cocaine	Crack	Marijuana	Amphetamine
Alabama	sch 1	sch 2	sch 2	sch 1	sch 3
Alaska	sch 1A	sch 2A	sch 2A	sch 3A	sch 4A
Arizona	sch 1	sch 2	sch 2	sch 1	sch 2
Arkansas	sch 1	sch 2	sch 2	sch 1	not listed
California	sch 1	sch 2	sch 2	sch 1	sch 2
Colorado	sch 1	sch 2	sch 2	sch 1	sch 2
Connecticut	sch 1	sch 2	sch 2	sch 1	sch 3
Delaware	sch 1	sch 2	sch 2	sch 1	sch 2
D.C.	sch 1	sch 2	sch 2	sch 2	sch 2
Florida	sch 1	sch 2	sch 2	sch 1	sch 2
Georgia	sch 1	sch 2	sch 2	sch 1[1]	sch 2
Hawaii	sch 1	sch 2	sch 2	sch 1	sch 2
Idaho	sch 1	sch 2	sch 2	sch 1	sch 2
Illinois	sch 1	sch 2	sch 2	listed under its act: the Cannabis Control Act, 56 1/2 §701 et seq	sch 2
Indiana	sch 1	sch 2	sch 2	sch 1	sch 2
Iowa	sch 1	sch 2	sch 2	sch 1	sch 2
Kansas	sch 1	sch 2	sch 2	sch 1	sch 1
Kentucky	sch 1	sch 2	sch 2	sch 1	sch 2
Louisiana	sch 1	sch 2	sch 2	sch 1	sch 2
Maine[2]	sch W	sch W	sch W	sch W & Z	sch W
Maryland	sch 1	sch 2	sch 2	sch 1	sch 1
Massachusetts[3]	class A	class B	class B	class D	class B
Michigan	sch 1	sch 2	sch 2	sch 1	sch 2
Minnesota	sch 1	sch 2	sch 2	sch 1	sch 2
Mississippi	sch 1	sch 2	sch 2	sch 1	sch 2
Missouri	sch 1	sch 2	sch 2	sch 1	sch 2
Montana	sch 1	sch 2	sch 2	sch 1	sch 2

[1] Must have more than 15% THC (tetrahydrocannobinol), the chemical in the cannabis plant.

[2] Maine schedules its drugs under an alphabetical category: W, X, Y & Z. The schedules are similar to other state categorizations.

[3] Massachusetts calls their schedules classes, but they are the same thing.

States	Heroin	Cocaine	Crack	Marijuana	Amphetamine
Nebraska	sch 1	sch 2	sch 2	sch 1	sch 2
Nevada[4]	sch 1	sch 2	sch 2	sch 1	sch 3
New Hampshire	sch 1	sch 2	sch 2	sch 1	sch 3
New Jersey	sch 1	sch 2	sch 2	sch 1	sch 3
New Mexico	sch 1	sch 2	sch 2	sch 1 & 2	sch 2
New York	sch 1	sch 2	sch 2	sch 1	sch 2
North Carolina	sch 1	sch 2	sch 2	NC has a sixth schedule which incl. marijuana	sch 2
North Dakota	sch 1	sch 2	sch 2	sch 1	sch 2
Ohio	sch 1	sch 2	sch 2	sch 1	sch 2
Oklahoma	sch 1	sch 2	sch 2	sch 1	sch 2
Pennsylvania	sch 1	sch 2	sch 2	sch 1	sch 2
Puerto Rico	sch 1	sch 2	sch 2	sch 1	sch 3
Rhode Island	sch 1	sch 2	sch 2	sch 1	sch 2
South Carolina	sch 1	sch 2	sch 2	sch 1	sch 2
South Dakota	sch 1	sch 2	sch 2	sch 1	sch 2
Tennessee	sch 1	sch 2	sch 2	sch 2, but only for certified patients under the Controlled Substances Therapeutic Research Act	sch 2
Texas	sch 1	sch 2	sch 2	sch 1	sch 2
Utah	sch 1	sch 2	sch 2	sch 1	sch 2
Vermont	sch 1	sch 2	sch 2	sch 1	sch 3
Virginia	sch 1	sch 2	sch 2	not listed, but liquid marijuana or hashish oil is listed as sch 1	sch 2
Washington	sch 1	sch 2	sch 2	sch 1	sch 2
West Virginia	sch 1	sch 2	sch 2	sch 1	sch 2
Wisconsin	sch 1	sch 2	sch 2	sch 1	sch 2

[4] While Nevada does not specifically name drugs under its five schedules, but instead lists the specific tests to determine under which schedule a drug belongs § 453.2182 says that the state will use 21 USC as a guide for scheduling. The state merely reserves the right to reschedule any controlled substance as it sees fit according to the tests set out in 453.166, et. seq.

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States	Heroin	Cocaine	Crack	Marijuana	Amphetamine
Wyoming	sch 1	sch 2	sch 2	sch 1	sch 2

OFFENSE/SUBSTANCE	SENTENCE
First Offense: Cocaine - Possession With Intent To Distribute - 5 kg	• imprisonment[5] for 7 years with possibility of • a fine not to exceed $150,000
First Offense: Trace of Heroin - Possession of 1 kg or more of a mixture with a small, but detectable amount of heroin	• imprisonment for 4 years with the possibility of • a fine not to exceed $150,000
First Offense: Codeine - Possession - 200 mg	• imprisonment for 4 years with the possibility of • a fine not to exceed $150,000
Second Offense: Marijuana - Possession - 50 kg	• imprisonment for 6.25 years • fine of between $750 and 3 times the value of the marijuana
Third Offense - Methamphetamine - Possession - 100 g	• imprisonment for 19 years with the possibility of • a fine not to exceed $150,000

Cite: A.R.S. §13-33405

Current Federal Penalties:

Group 1 and Group 2: . . . person shall be sentenced to prison which may not be less than 10 years or more than life and a fine not to exceed 4 million dollars.

Group 3: . . . person shall be sentenced to a term of imprisonment of not more than one year, a fine not exceed $250,000 in the case of an individual.

Group 4: . . . person shall be sentenced to a term of imprisonment of not more than 10 years, a fine not to exceed $500,000.

Group 5: . . . person shall be sentenced mandatory life imprisonment without release and fine not to exceed $8 million.

Cite: 21 U.S.C. § 841 (1992).

[5] Imprisonment time varies widely depending on the number of historical felony convictions and in light of any mitigating or aggravating factors found in A.R.S. § 13-702

Lesson 6 & 7

ARIZONA LAW - for use with lessons 6 & 7

1. **What does DWI stand for?**

Driving while intoxicated.

2. **What does DUI stand for?**

Driving under the influence. Under §28-692 it is illegal for a person to drive while under the influence of intoxicating liquor if the person is impaired to the slightest degree, and if the person's alcohol concentration if 0.10 or more.

3. **In terms of penalties, is being convicted of DWI more serious than being convicted of DUI?**

There is no difference under Arizona law.

4. **What are the penalties for being convicted of DWI? DUI?**

CONVICTIONS	PUNISHMENT
Section 28-692: first conviction	♦ at least 24 consecutive hours in jail, and ♦ a fine of at least $250, and ♦ at least 24 hours of community service. ♦ a person may be placed on probation for at least one year.
" : second conviction	♦ at least 60 days in jail, 48 hours must be consecutive, and ♦ at a fine not less than $500, and ♦ revocation of license to drive.
Section 8-249: conviction of "child"	♦ suspension of license for 2 years if child has license or bar from obtaining license until the child reaches 18 years of age.

5. **What is the penalty for refusing to submit to a breathalyzer test upon a police officer's reasonable request?**

Under §28-691 any person who operates a motor vehicle on the highways of Arizona gives his/her consent to a breath test. If driver refuses his/her license will be suspended for 12 months.

6. **What must a person's blood alcohol content (BAC) be before**

he/she is legally intoxicated?

Under §28-692 a persons legal BAC must 0.10 to be legally intoxicated.

7. **The legal limit for blood alcohol is lower for persons under the legal drinking age of 21. True or False?**

False. There is no statute that makes the legal limit for minors lower than for adults.

8. **An open container of alcohol can be in your car if you are 21 or over. True or False?**

There is no specific open container law in Arizona. However, under § 4-244(21) no person may transport spirituous liquor which was manufactured illegally under the laws of Arizona or the United States. Any property used in the transportation of such liquor shall be forfeited to the state. (32) states that broken packages cannot be authorized to be removed from licensed premises.

Section 4-244.01 makes it illegal for a minor to be in possession of or consume spirituous liquor. The penalty for violation of the law by a minor shall not exceed $500 or community service.

Lesson 9

Although the drinking age is 21 in all 50 states (meaning specifically that the sale of alcohol to minors is prohibited), the laws on teenage drinking vary from state to state. The laws vary in regard to whether they include prohibition of the purchase of alcohol, the attempt to purchase alcohol, the consumption of alcohol and the possession of alcohol. According to the **March 11, 1993 Safety Recommendation report of the National Transportation Safety Board,**

- Five states (DE, FL, MT, NH & NY) and the District of Columbia do not prohibit the purchase of alcohol by minors.
- West Virginia and the District of Columbia do not prohibit public possession of alcohol by minors.
- 23 states (AK, AR, DE, DC, FL, GA, RI, IL, IA, LA, ME, MD, MI, MS, MT, NV, NH, NY, SC, TX, UT, VT, VA) do not prohibit minors from attempting to purchase alcohol.
- 21 states (AR, CO, CT, FL, GA, HI, IA, KY, LA, MA, MS, MO, NE, NH, NM, NC, OR, SC, VT, WV, WY) do not prohibit alcohol consumption by minors.
- 16 states (AR, CA, CO, HI, KY, LA, ME, MI, NM, NY, NC, OK, SD, VA, WA, WY) do not prohibit minors from misrepresenting their age in order to purchase alcohol.
- 19 states (AL, AR, CO, DE, DC, IA, KS, LA, MD, MN, MT, NJ, OR, PA, SC, UT, VA, WA, WI) do not prohibit minors from presenting false ID to purchase alcohol.

In addition, most states do no prohibit minors from driving with alcohol in their blood unless their blood alcohol content reaches the adult legal limit, which is .10 percent in most states. Fifteen states, however, have amended their laws to lower for minors the permitted blood alcohol content while driving. These laws vary according to the age under which minors must be in order for the lower blood alcohol content to apply. Here is the layout for state laws on blood alcohol content for minors while driving:

0.00 BAC	0.01 BAC	0.02 BAC	0.04 BAC	0.05 BAC	0.06 BAC
AZ (<21)	NJ (<21)	ME (<21)	RI (<21)	CA (<18)	GA (<18)
NC (<19)		MD (<21)	NH (<21)	NM (<18)	
OR (<21)		OH (<18)			
UT (<21)		VT (<18)			
WI (<18)					

A number of states have tried to cut down on teenage driving accidents by implementing nighttime driving restrictions. The following states have some form of curfew for teenage driving:

ID: minors <16 can drive during the daytime only
IL: minors <17 cannot drive between 11pm-6am Mon-Thur and

12am-6am Fri-Sun
LA: minors <15 cannot drive between 11pm-6am Mon-Thur and 12am:6am Fri-Sun
MD: minors <16 cannot drive between 12am-5am
MA: minors <18 cannot drive between 1am-4am
NY: minors <18 cannot drive between 9pm-5am
PA: minors <18 cannot drive between 12am-5am
SD: minors <16 cannot drive between 8pm-6am.